



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/757,813	01/10/2001	Nobuhiro Komata	SCEI 18.056	7364

26304 7590 04/01/2004

KATTEN MUCHIN ZAVIS ROSENMAN
575 MADISON AVENUE
NEW YORK, NY 10022-2585

EXAMINER

RADA, ALEX P

ART UNIT PAPER NUMBER

3714

DATE MAILED: 04/01/2004

21

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/757,813

Applicant(s)

KOMATA, NOBUHIRO

Examiner

Alex P. Rada

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-12, 14 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-12, 14 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

In response to the amendment filed December 18, 2003 in which the applicant amends claims 8-10, adds new claims 14-15, and claims 8-12 and 14-15 are pending in this office action.

Specification

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification does not provide support for the emotion corresponds to speech content as recited in new claim 15, *nor the limitation of claim 14*.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 14-15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification as originally filed does not provide the claimed subject matter of transmitting the emotion at a predetermined value corresponding to the magnitude of said pressure-sensing output signal for a predetermined period of time as recited in claim 14 and the

emotion corresponds to speech content of said player as recited in claim 15. Applicants point out in the specification the support for the new claims 14 and 15. However, the examiner notes that the support noted by applicant for support of claims 14 and 15 are insufficient because they do not provide definite support nor do they provide literal support for the claimed subject matter.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8-12 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker '467 in view of Furukawa JP '760.

6. Walker discloses a controller which has pressure-sensitive means for sensing a pushing pressure of a player on the controller generating a pressure-sensing output signal having a variable magnitude and transmitting an emotion of the player corresponding to the magnitude of the pressure-sensing output signal to at least one of the other on-screen characters, which the motion of the device using accelerometers to generate different outputs of action and emotion by varying intensity of movement of the device to provide an equivalent to the applicant's pressure-sensitive means (summary and column 11, line 5 – column 12, line 43), as recited in claim 8; switching among a plurality modes of emotion of the player (figure 9 and column 11, lines 5-26) as recited in claim 9; recognizing an emotion of anger or joy to present depending on a magnitude of an output value of the controller in scenes in which the player or the character

Art Unit: 3714

controlled by the player has a highly probability of expressing anger (figure 9 and column 11, line 5 – column 12, line 43) as recited in claim 11; recognizing a case where the output value of the controller changes from large to small to be an emotion of sadness and the output value of the controller changes from small to large to be an emotion of joy (figure 9 and column 11, line 5 – column 12, line 43) as recited in claim 12; the transmitting the emotion at a predetermined value for a predetermined period of time as recited in claim 14; the emotion corresponds to speech content of the player as recited in claim 15.

Walker does not expressly disclose the pressure-sensitive means for sensing a variable pushing pressure of a player and the variable magnitude dependent on the variable pushing pressure as recited in claims 8 and 14; a plurality of pressure-sensitive means as recited in claim 10.

Furukawa teaches an equivalent means for sensing a variable pushing pressure of a player and the variable magnitude dependent on the variable pushing pressure, and a plurality of pressure-sensitive means (paragraph 0001, 0010, and 0012). By having a variable pushing pressure of a player and the variable magnitude dependent on the variable pushing pressure, and a plurality of pressure sensitive means for sensing a pushing pressure of the player on the controller, one of ordinary skill in the art would provide a video game for game players the intention of directly reflecting the operation of the character in a game (paragraph 00012). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention was made to modify Walker to include a variable pushing pressure of a player and the variable magnitude dependent on the variable pushing pressure, and a plurality of

pressure-sensitive means as taught by Furukawa. To do so would provide a video game for game players the intention of directly reflecting the operation of the character in a game.

Response to Arguments

7. Applicant's arguments with respect to claims 8-12 and 14-15 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the suggestion to combine can be found in the Furukawa reference in paragraph 0012 as also noted in the office action above.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). In this case, since the knowledge was gleaned from the prior art, (see the previous paragraph), then the reconstruction is deemed proper.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex P. Rada whose telephone number is 703-308-7135. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



S. THOMAS HUGHES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

Art Unit: 3714

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Apr